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EXAMINER

LEVINE, ADAM L

ART UNIT PAPER NUMBER

3625

DATE MAILED: 12/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/781,654

Applicant(s)

WHITE, CRAIG R.

Examiner

Adam Levine

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5, 6, 10-15, 23, 25, 26, 35 and 36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 6, 10-15, 23, 25, 26, 35 and 36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

This addresses the Amendment filed July 28, 2005. Claims 4, 7-9, 16-22, and 27-34 have been cancelled. Currently pending claims 1-3, 5-6, 10-15, 23, 25-26, and 35 are all currently amended. Claim 36 is newly added. Applicant's intentions with regard to Claim 24 are unknown. In Applicant's discussion of the Amendment, the claim is not noted as withdrawn or cancelled, however the claim has been cancelled in the listing of claims. Currently amended Claims 25 and 26 depend from cancelled Claim 24 and will be assumed to depend from Claim 23 for purposes of completing a thorough examination, however, they must be corrected or cancelled. Claims 1-3, 5-6, 10-15, 23, 25-26, and 35-36 are treated herein.

Pertaining to the objection to the Specification in the previous action:

In the prior Office Action the disclosure was objected to because of the following informalities: In the Brief Description of the Drawings, Figure 4 was inaccurately described. Applicant failed to make appropriate corrections and did not address this objection in the reply. Please take appropriate actions to correct the specification.

The Examiner takes this opportunity to note that in addition to the above, reference numbers 24, 42, and 300, included in the detailed description of Fig.4, are not indicated in the drawing figure itself.

Pertaining to Claim Objections in the previous action:

Claims 7, 9, 14, 23, and 26 were objected to in the prior action. Claims 7 and 9 have been cancelled. Claims 14, 23, and 26 have been amended for clarity, and the Examiner agrees that these amendments have obviated the objections.

Pertaining to Claim Rejections under 35 USC 112 in the previous action:

Claims 4, 27, and 28 were rejected in the previous office action. Claims 4, 27, and 28 have been cancelled.

Pertaining to Claim Rejections under 35 USC 101 in the previous action:

Claims 27 and 28 were rejected under 35 USC 101 in the previous office action. Claims 27 and 28 have been cancelled.

Response to Arguments

Pertaining to Claim Rejections under 35 USC 102(b) in the previous action:

Applicant's arguments, see Remarks, filed July 28, 2005, with respect to the rejection(s) of claim(s) 1-3, 15, 23, and 35 under 35 USC 102(b) have been fully considered and are persuasive in light of amendments to the claims. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made under 35 USC 103(a) over Triggs (Paper #042705, GB 2,329,488 A) in view of Krishan (Paper #042705, US 6,442,529 B1).

With regard to claims 1-3, 15, 23, and 35, Applicant acknowledges that Triggs discloses provider computers, servers, user computers, a remote database, information stored in the remote database by providers under subject headings, and users accessing the information using the subject headings to find the address of the information sources provided by the providers. Applicant does not acknowledge that Triggs discloses the connection of these various elements through a computer network such as the internet (see at least abstract, page 1 lines 1-5). Applicant then argues that Triggs

“does not disclose operating a network portal interface including, among other things, initiating construction of the network portal interface upon each instance that at least one user interface device requests to access the network portal interface, as claimed by Applicant in amended independent claim 1.”

However, given that Triggs discloses user computers, provider computers, servers, remote databases, and information in a remote database being accessed through a network by users using user computers and by providers using provider computers, it is incontrovertible that the information must be accessed by way of a network portal. Likewise, the only way to gain useful access to the information retrieved through the portal would be to display that information via a network portal interface. These terms are simply too broad to allow for any more narrow understanding. Triggs could not possibly function without operating a network portal interface. Additionally, Triggs discloses users accessing the database and obtaining a list of available subject headings (see at least page 2 lines 14-19). This list is produced each time the user requests access and is clearly not a permanent presence on the interface. This is demonstrated by the polling of information sources to determine if they are still active,

the user computer being arranged to request new or updated information, and keyword searching headlines in the database (see at least page 3 lines 10-19). Since a new list must necessarily be constructed with each access to request information, the Triggs disclosure requires that a network portal interface be constructed each time.

Applicant further argues that Triggs

“does not disclose a network portal interface, in addition to a dynamic service provider database and at least one user interface device, wherein the at least one user interface device accesses the network portal interface, which stands between the at least one user interface device and the dynamic service provider database.”

The user interface device is of course inherent, or there would be no way for the user to access the information produced by the network portal interface. In other words, the user could not use the invention without a user interface device. It is not entirely clear whether Applicant alleges the absence of a dynamic service provider database in Triggs. Applicant defines the dynamic service provider database as a database of providers that have self-selected their inclusion in the database. Triggs discloses a database of providers that have self-selected their inclusion in the database (see at least abstract, page 1 lines 33-36, page 2 lines 10-13, 23-25, 34-38). Given that the user and the database are connected through (and separated by) a network, it is clear that the arrangement requires the network portal interface to stand between the user interface device and the dynamic service provider database. It is also clear that there must be an active interaction between the network portal interface and the dynamic service provider database in order to obtain the requested information retrieved from the database and produce it to the user interface.

Applicant argues that his network portal accesses a fixed service provider database including a listing of providers that the network portal has selected for inclusion, and that it displays a link on the network portal interface in association with service providers from the fixed database. Applicant argues correctly that Triggs does not disclose a network portal interface that displays links in association with a fixed service provider database.

Triggs teaches a network portal constructed by accessing a database of service providers and displaying keyword service links on the portal interface in connection with the service providers as noted above and under the 102(b) rejection in the previous office action. Triggs also teaches a) displaying only links of selected providers, b) the natural ability of portals to restrict providers' ability to get their information referenced, and c) displaying keyword service links in association with selected providers. Triggs, however, does not disclose a network portal interface that displays links in association with a fixed service provider database. Krishan teaches a network portal interface that displays links in association with a fixed service provider database (see at least abstract, Figs. 1A and 1B, column 2 lines 46-54). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the network of Triggs to include a network portal interface that displays links in association with a fixed service provider database as taught by Krishan in order for the portal to assert greater control over the network while facilitating commerce between the users and providers on the portal.

Consequently, Triggs in view of Krishan discloses a reconstructed network portal interface in which keyword service links associated with both a dynamic service provider database and a fixed service provider database are both displayed on the network portal interface. Therefore, claims 1-3 and 35 continue to be rejected. Claims 5 and 6 are rejected over Triggs in view of Newman (Paper #042705, US Pub. No. 2002/0069176) and further in view of Krishan.

With regard to claim 15, to the extent Applicant's arguments differ from those discussed previously, Applicant argues that Triggs does not disclose, "the database being separate from the network portal and independent from the network portal interface...."

Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clearly understood what relationship Applicant intends to describe between the database and the network portal and network portal interface. The specification as originally filed does not disclose the database "being separate" from the network portal. Some form of relationship must exist between the database and network portal in order for the invention to function. If this merely refers to a physical separation in space between the elements, or to the fact that they are separate elements, this does not add anything to the disclosure, and is inherent in both Triggs and in the Applicant's previous claims. This is essentially the same as the discussion with regard to the database being "independent from the network portal interface." The database's function can be seen as independent of the network portal, yet they do

interact as part of the overall function of the present invention, as well as in Triggs. To the extent that this is disclosed in the specification as originally filed, Applicant discloses the dynamic database potentially being maintained by an independent third party. This is certainly possible, and it is not new matter, however, the dynamic database is self-selecting. Therefore, the party that maintains the database is merely a custodian. Because it has no functional role in the method the party's identity is nonfunctional descriptive matter and cannot distinguish the present application from the prior art. Regardless, this intended meaning is not clear from the language in the claim. Finally, the previously discussed disclosure in Triggs easily encompasses claim 15 regardless of the identity of the parties that physically possess each of the elements in the network.

Applicant argues,

"Triggs does not disclose a system including a network portal interface that comprises... a controller configured to direct construction of the network portal interface upon each instance of access to the network portal interface by the at least one user interface device,"

As it is clear that Triggs discloses construction of the network portal interface upon each instance of access to the network portal interface by the user device, there must also be a controller to direct such construction. Clearly the construction is controlled as it needs to be responsive to the users requirements. Uncontrolled construction would simply not meet the purpose for the existence of the invention disclosed by Triggs.

With regard to claim 23, the substantive elements of Applicant's arguments are addressed with regard to previous arguments discussed above.

On page 14 of Applicant's remarks, it is argued that claims 1, 15, 23, and 35 are patentable and allowable over Matsui and/or Smart. Discussion of these references is not understood as these references are currently not in issue in this examination. If Applicant wishes the references to be considered, Applicant should file a proper Information Disclosure Statement. 37 CFR 1.98.

Claims 1-3, 15, 23, 35 and 36 are rejected under 35 USC 103(a) over Triggs (Paper #042705, GB 2,329,488 A) in view of Krishan (Paper #042705, US 6,442,529 B1) as discussed above.

Pertaining to Rejections under 35 USC 103(a) in the previous office action:

Claims 5, 6, 10-14, and 25-26 are now rejected over Triggs (Paper #042705, GB 2,329,488 A) in view of Krishan (Paper #042705, US 6,442,529 B1) as discussed above, and further in view of Newman (Paper #042705, US Pub. 2002/0069176) as discussed in the previous office action.

With regard to Claim 10, Applicant's arguments do not substantively differ from those discussed previously. As discussed above, Triggs discloses an active network portal and network portal interface.

According to Applicant's Remarks and the listing of claims, Claims 4, 7-9, 16-22, and 27-34 have been cancelled. In the body of Applicant's remarks, however, Applicant proceeds to include Claims 4, 7-8, 16-22, 24 (also see above), 27, and 28 in arguments. Cancelled claims have not been considered in this office action.

Specification

The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

The disclosure is objected to because of the following informalities: In the Brief Description of the Drawings, Figure 4 is inaccurately described.

Appropriate correction is required.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: reference numbers 24, 42, and 300, included in the detailed description of Fig.4, are not indicated in the drawing figure itself. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clearly understood what relationship Applicant intends to describe between the database and the network portal and network portal interface. The specification as originally filed does not disclose the database “being separate” from the network portal. Some form of relationship must exist between the database and network portal in order for the invention to function. If this merely refers to a physical separation in space between the elements, or to the fact that they are separate elements, this does not add anything to the disclosure. The database’s function can be seen as independent of the network portal, yet they do interact as part of the overall function of the present invention. To the extent that this is disclosed in the specification as originally filed, Applicant discloses the dynamic database potentially being maintained by an independent third party. This is certainly possible, and it is not new matter, however, the dynamic database is self-selecting. Therefore, the party that maintains the database is merely a custodian. Because it has no functional role in the method the party’s identity is nonfunctional descriptive matter and cannot distinguish the present application from the prior art. Regardless, this intended meaning is not clear from the language in the claim.

2. **Claims 25 and 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.** These claims depend from Claim 24. Claim 24 has been cancelled. Therefore it cannot be determined what applicant regards as his invention.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-3, 15, 23, 35 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Triggs (Paper #042705, GB 2,329,488 A) in view of Krishan (Paper #042705, US 6,442,529 B1).**

Triggs discloses a network portal constructed by accessing a database of service providers that have self-selected their inclusion into the database (see at least p. 1; line 25 – p. 2 line 13). Triggs further discloses:

- accessing the portal with a network-capable computing device: (see at least p. 1; line 25 – p. 2 line 16); creating a communication connection between the service provider and the service provider database (see at least p. 1; line 25 – p. 2 line 13).
- displaying keyword-service links on the network portal: in association with

the service providers; viewing a list of available services on the network portal (see at least p. 2 lines 14-19; p. 3 lines 16-19).

- displaying a link on the network portal for activation by a user: to connect to the service provider; selecting a service for access by the user; invoking a service location to connect the user interface to the service provider and permit user access to the selected service (see at least p. 2 lines 17-21).
- displaying at least one criteria function: for permitting a user to specify further criteria for selecting a group of service providers from the first service provider database (see at least p. 2 lines 17-21; p. 3 lines 16-22; p. 4 lines 30-36; p. 5 lines 19-27).
- accessing a database of service providers: displaying a service document on the user interface providing information on the type and manner of service provided by a service provider; in association with keywords; creating a list of keywords that represent the service provided and inserting the keyword list into the service document (see at least abstract; (see at least p. 2 lines 22-33; p. 3 line 37- p. 4 line 6).
- submitting type of service keywords displayed on the network portal to the first service provider database for matching with types of services offered by service providers in the first service provider database (see at least p. 3 lines 16-22, p. 5 lines 14-27); retrieving from the first service provider database a list of service providers that match the type-of-service keywords (see at least p. 5 lines 14-27)

- insuring that the service document is up-to-date prior to its inclusion into the service provider database: (see at least p. 2 lines 22-26; p. 3 lines 4-15).

Triggs teaches a network portal constructed by accessing a database of service providers and displaying keyword service links on the portal interface in connection with the service providers as noted above and under the 102(b) rejection in the previous office action. Triggs also teaches a) displaying only links of selected providers, b) the natural ability of portals to restrict providers' ability to get their information referenced, and c) displaying keyword service links in association with selected providers. Triggs, however, does not disclose a network portal interface that displays links in association with a fixed service provider database. Krishan teaches a network portal interface that displays links in association with a fixed service provider database (see at least abstract, Figs. 1A and 1B, column 2 lines 46-54). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the network of Triggs to include a network portal interface that displays links in association with a fixed service provider database as taught by Krishan in order for the portal to assert greater control over the network while facilitating commerce between the users and providers on the portal.

Pertaining to system Claim 23 and computer readable medium Claims 35 and 36

Rejection of Claims 23,35 and 36 is based on the same rationale as noted above.

Claims 5,6, 10-14, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Triggs (GB 2329488 A) in view of Krishan (Paper #042705, US

6,442,529 B1), and further in view of Newman (Paper #042705, US Pub. 2002/0069176).

Triggs teaches a network portal constructed by accessing a database of self selected service providers and displaying keyword service links on the portal in connection with the service providers as noted above and under the 102(b) rejection in the previous office action. Krishan further teaches service providers exclusively selected by the network portal and having a fee-for-display contractual arrangement with the network portal (see at least abstract; Figs. 1A and 1B; column 1 lines 46-54; column 6 lines 18-20). Triggs in view of Krishan also teaches a) displaying only keyword service links of predetermined types, b) where those types are based on previous choices of the user, c) where those choices are made through the presentation of criteria to the user or through the use of keywords and key word searches, d) services being accessed through the portal by the user, and e) a fixed service provider database in addition to a dynamic service provider database. Triggs in view of Krishan, however, does not teach the set of predetermined types having been purchased by a user in a fee for service arrangement with the portal; displaying only keyword-service links matching a set of predetermined user preferences; and arranging for fee for service payment for selected services through a user account associated with the network portal and based on a predetermined arrangement between the user and the network portal. Newman teaches the set of predetermined types having been purchased by a user in a fee for service arrangement with the portal (see at least abstract; p. 2, 0018). Newman further teaches:

- displaying only keyword-service links matching a set of predetermined user preferences: comparing each keyword-matched service provider against a set of predetermined user profile criteria; displaying links to user-profile matched services offered by the service providers; determining whether the type and number of service providers matches the user profile criteria (see at least abstract; p. 2, 0018; Fig. 4A), and
- arranging for fee for service payment for selected services through a user account associated with the network portal and based on a predetermined arrangement between the user and the network portal: (see at least p. 2, 0026).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the network of Triggs in view of Krishan to include a fee for service arrangement as taught by Newman in order to derive financial benefit from the network while providing ease of use and facilitating commerce between the users and providers of the portal.

Pertaining to system Claims 25, 26

Rejection of Claim 25, 26 is based on the same rationale as noted above.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adam Levine whose telephone number is 571.272.8122. The examiner can normally be reached on M-F, 8:30-5:00 Eastern.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn W. Coggins can be reached on 571.272.7159. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Adam Levine
Patent Examiner
December 12, 2005


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